

FRIDAY, APRIL 16, 1999

MISC.-ORDER

99-03

By the Court:

Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding Justice to discharge the duties described in Rules 75, 76, 77 and 78 of the California Rules of Court during the absence of the Presiding Justice from the court for the period of April 21, 1999, through April 23, 1999, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

Dated: April 16, 1999

SCOTLAND, P.J.

Crim.

THE PEOPLE

No.

v.

C025736

RUDOLPH RAYMOND SIMENTAL, JR.

BY THE COURT:

Appellant's petition for rehearing is denied.

Dated: April 16, 1999

SCOTLAND, P.J.

Crim.

THE PEOPLE

No.

v.

C029366

KENNETH WILLIAM ROMERO, et al.

BY THE COURT:

Appellants' petitions for rehearing are denied.

Dated: April 16, 1999

RAYE, Acting P.J.

Civil

IVAN ALLEN COFFMAN

No.

v.

C031913

JEFFERY WILSON et al.

BY THE COURT:

Respondent's motion to dismiss is granted. The appeal filed February 5, 1999, is dismissed.

Dated: April 16, 1999

SCOTLAND, P.J.

FRIDAY, APRIL 16, 1999 CONTINUED

Civil CONRAD J. BAHRE et al. (Not for Publication)
No. v.
C024215 SETH SICROFF

The judgment is reversed. The cause is remanded to the trial court with instruction to restore the case to the civil active list and to proceed in accordance with Code of Civil Procedure section 1141.20 and California Rules of Court, rule 1616. Plaintiffs' request for sanction against Sicroff for frivolous appeal is, for obvious reasons, denied. Sicroff shall recover costs on appeal.

CALLAHAN, J.

We concur: BLEASE, Acting P.J.
 RAYE, J.

Juvenile PAMELA (Not for Publication)
No. v.
C031898 THE SUPERIOR COURT OF SACRAMENTO COUNTY
 SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN
 SERVICES et al.

The petition and request for stay are denied.

SCOTLAND, P.J.

We concur: NICHOLSON, J.
 HULL, J.

Juvenile MADONA M. (Not for Publication)
No. v.
C031969 THE SUPERIOR COURT OF SAN JOAQUIN COUNTY
 SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY et al.

The petition and request for a stay are denied.

SCOTLAND, P.J.

We concur: NICHOLSON, J.
 HULL, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C029345 CECIL LEON BELTON

The judgment is affirmed.

MORRISON, J.

We concur: RAYE, Acting P.J.
 CALLAHAN, J.

FRIDAY, APRIL 16, 1999 CONTINUED

Juvenile In re KENNY RAY W., a Person Coming Under the Juvenile Court Law.
No. THE PEOPLE (Not for Publication)
C029880 v.

KENNY RAY W.

The judgment (the order filed June 15, 1998, adjudging the minor a ward of the court) is affirmed.

KOLKEY, J.

We concur: NICHOLSON, Acting P.J.
HULL, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C030814 TERRANCE LANARD COOPER

The judgment is affirmed.

KOLKEY, J.

We concur: SCOTLAND, P.J.
HULL, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C013254 THIEN TRONG PHAM

Crim. THE PEOPLE

No. v.

C013446 THANH DAN TRAN

The judgments are affirmed. The court is directed to correct the abstract of judgment and to forward a copy thereof to the Department of Corrections.

PUGLIA, J.

We concur: SCOTLAND, P.J.
SIMS, J.

Crim. THE PEOPLE (Not for Publication)
No. v
C030213 MICHAEL ANGELO SERRATO

The judgment is affirmed.

SCOTLAND, P.J.

We concur: HULL, J.
KOLKEY, J.

FRIDAY, APRIL 16, 1999 CONTINUED

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| Crim. No. C029786 | THE PEOPLE v. JAMES SAMUEL JOHNSON The judgment is affirmed. | (Not for Publication) MORRISON, J. We concur: DAVIS, Acting P.J. CALLAHAN, J. |
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MONDAY. APRIL 19, 1999

At 9:30 a.m., the court met in the Library & Court Building for a continuation of it's court calendar session.

PRESENT: SIMS, Acting Presiding Justice
NICHOLSON, Associate Justice
CALLAHAN, Associate Justice

Bailiff: Rios
Calendar called.

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| Civil No. C028302 | ROBERT A. BROWN et al. v. STATE COMPENSATION INSURANCE FUND Cause called. George E. Murphy , of Farmer & Murphy argued for X-Defendant-Appellant. Esteban G. Gallegos, of Roxborough, Pomerance, Gallegos & Nye argued for X-Complainant-Respondent. Frank J. Torrano, of Farmer & Muphy appeared on behalf of X-Defendant-Appellant but did not argue. Cause submitted. |
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| Civil No. C028058 | RICHARD N. MOSEMAN v. SUZANNE HURST et al. Cause called. Robert C. Maddox argued for Plaintiff-Appellant. James J. Banks, of Hansen, Boyd, Culhane & Watson argued for Defendants-Respondents. Cause submitted. |
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MONDAY, APRIL 19, 1999 CONTINUED

Crim. THE PEOPLE

No. v.

C028359 GUADALUPE TORRES

Cause called. Cynthia Thomas, court appointed counsel argued for Defendant-Appellant. Ruth M. Saavedra, Deputy Attorney General argued for Plaintiff and Respondent. Cause submitted.

At 10:35 a.m., court recessed. At 10:37 a.m., court reconvened with Acting Presiding Justice Nicholson, Associate Justice Callahan, and Associate Justice Hull.

Civil CONSTRUCTION INDUSTRY FORCE ETC. et al.

No. v.

C028540 AMADOR WATER AGENCY

Cause called. Ralph Livingstone, of Stanton, Kay & Watson argued for Plaintiffs-Appellants. Alan B. Lilly, of Bartkiewicz, Kronick & Shanahan argued for Defendant-Respondent. Cause submitted.

At 11:14 a.m., court recessed. At 11:16 a.m., court reconvened with the same panel except Associate Justice Raye in place of Associate Justice Callahan.

Crim. THE PEOPLE

No. v.

C028309 DARRELL ANTHONY HOBBS

Cause called. Deborah Redican Schulte, court appointed counsel argued for Defendant-Appellant. Brian R. Means, Deputy Attorney General argued for Plaintiff-Respondent. Cause submitted.

MONDAY, APRIL 19, 1999 CONTINUED

At 11:43 a.m., court recessed. At 2:05 p.m., court reconvened with Acting Presiding Justice Raye and Associate Justice Callahan. Per stip. of counsel Associate Justice Morrison did not participate.

Civil MARVIN L. OATES
No. v.
C023340 CITY OF LINCOLN et al.

Cause called. Thomas P. Griffin Jr., of Hefner, Stark & Marois argued for Plaintiff-Appellant. Matthew P. Donahue, of Caulfield, Davies & Donahue argued for Defendants-Respondents City of Lincoln et al. Charles B. Klinedinst, of Hoffman, Finney & Klinedinst argued for Defendant-Respondent First California Capital etc. Cause submitted.

Court adjourned at 2:42 p.m., until 9:30 a.m., Monday May 17, 1999.

Crim. THE PEOPLE
No. v.
C027096 NATHANIEL MAURICE POPLAR
BY THE COURT:

Appellant's petition for rehearing is denied.

Dated: April 19, 1999

DAVIS, Acting P.J.

Juvenile In re the matter of NICHOLAS M.
No. THE PEOPLE
C031504 v.
NICHOLAS M.
BY THE COURT:

Pursuant to the written request of the appellant, the appeal filed December 18, 1998, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 38.)

Dated: April 19, 1999

SCOTLAND, P.J.

MONDAY, APRIL 19, 1999 CONTINUED

Crim. THE PEOPLE (Not for Publication)
No. v.
C025730 THOMAS GERALD MORGAN

The judgment is affirmed.

SCOTLAND, P.J.

We concur: DAVIS, J.
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C030266 THE SUPERIOR COURT OF SAN JOAQUIN COUNTY
SANDRA RACHEL VIELMA

The alternative writ is discharged. Let a peremptory writ of mandate issue commanding respondent superior court to set aside its order granting defendant's motion to dismiss count two of the information alleging possession for sale and to enter a new and different order denying said motion.

SIMS, Acting P.J.

We concur: DAVIS, J.
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C027566 BENITO MORALES

The portion of the judgment that awards persistence custody and conduct credits is vacated, and the matter is remanded with directions to the trial court to redetermine the amount of those credits to which defendant is entitled. In all other respects, the judgment is affirmed.

SCOTLAND, P.J.

We concur: NICHOLSON, J.
MORRISON, J.

TUESDAY, APRIL 20, 1999

Crim. THE PEOPLE
No. v.
C029162 MATTHEW JOSEPH PENNUCCI
BY THE COURT:

Appellant's petition for rehearing is denied.

Dated: April 20, 1999

SCOTLAND, P.J.

Civil OZELLA HALEY et al. (Certified for Publication)
No. v.
C029377 DOW LEWIS MOTORS, INC. et al.

The judgment is reversed. The matter is remanded with instruction to enter an order granting the motion for judgment on the pleadings with leave to amend only as to the causes of action accruing before May 3, 1995. The order shall provide a reasonable time in which plaintiff may secure either the bankruptcy trustee's participation in, or abandonment of these causes of action. Plaintiff shall recover their costs on appeal.

MORRISON, J.

We concur: BLEASE, Acting P.J.
RAYE, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C026264 WILLIAM JAMES REE DEES

The order of dismissal is reversed, and the matter is remanded to the trial court with directions to vacate its order setting aside the information and to enter a new order denying defendant motion to set aside the information.

SCOTLAND, P.J.

We concur: BLEASE, J.
NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)
No. v.
C028333 DAVID FRESQUEZ

The judgment is affirmed.

RAYE, J.

We concur: BLEASE, Acting P.J.
HULL, J.

TUESDAY, APRIL 20, 1999 CONTINUED

Crim. THE PEOPLE (Not for Publication)

No. v.

C026868 GREGG ALEXANDER WILLIAMS.

The judgment is affirmed.

CALLAHAN, J.

we concur: SCOTLAND, P.J.
BLEASE, J.

Crim. THE PEOPLE (Not for Publication)

No. v.

C029864 DEWANE CLAUDE MCCONNELL

The judgment is affirmed.

DAVIS, Acting P.J.

We concur: MORRISON, J.
CALLAHAN, J.

Crim. THE PEOPLE (Not for Publication)

No. v.

C028602 JOHN HOWARD SOULE

The judgment is affirmed.

RAYE, J.

We concur: SIMS, Acting P.J.
DAVIS, J.

Civil NANCY BURGE (Not for Publication)

No. v.

C027510 DENNIS TAYLOR

The order granting a new trial is reversed as void; the judgment is affirmed. The parties are to bear their own costs.

DAVIS, Acting P.J.

WE CONCUR: NICHOLSON, J.
CALLAHAN, J.

WEDNESDAY, APRIL 21, 1999

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C028644 WILLIE CLAY MARTIN et al.

The judgment is affirmed.

SIMS, Acting P.J.

We concur: RAYE, J.
 CALLAHAN, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C029122 RAYMOND OTIS WALKER

The sentence on count III is stayed. In all other respects, the judgment is affirmed.

BLEASE, Acting P.J.

We concur: RAYE, J.
 HULL, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C028011 BRADY RAY FISHER

The appeal is dismissed.

BLEASE, Acting P.J.

We concur: DAVIS, J.
 RAYE, J.

THURSDAY, APRIL 22, 1999

Civil CALIFORNIA REHABILITATION ETC. et al.
 No. v.
 C030604 BRENDA PREMO, as Director, etc.
 BY THE COURT:

Pursuant to the written stipulation of counsel, the appeal filed on September 4, 1998, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 19 (b).)

In accordance with the written stipulation of counsel, the parties shall bear own costs on appeal.

Dated: April 22, 1999

BLEASE, Acting P.J.

THURSDAY, APRIL 22, 1999 CONTINUED

Civil BRUCE BECK et al.
 No. v.
 C031503 GRAY DAVIS, as Governor, etc. et al.

BY THE COURT:

Respondents' motion to dismiss the appeal is granted as to all parties. The appeal is taken in violation of the final judgment rule. (See Morehart v. County of Santa Barbara (1994) 7 Cal. 4th 725, 743-744; Nerhan v. Stinson Beach County Water Dist. (1994 27 Cal. App. 4th 536, 539-540.)

Dated: April 22, 1999

SIMS, Acting P.J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C029856 EMILIO MONGE NUNEZ

The judgment is affirmed.

HULL J.

We concur: BLEASE, Acting P.J.
 RAYE, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C025305 WILLIAM JOSEPH BRYAN

The convictions are affirmed. The sentence is vacated and the case is remanded for resentencing in accordance with the views expressed in this opinion and to allow the trial court the opportunity to exercise its discretion as to whether defendant should be sentenced concurrently or consecutively on his several convictions.

RAYE, Acting P.J.

We concur: CALLAHAN, J.
 PUGLIA, J.

Civil JAMES E. WILLIAMS (Not for Publication)
 No. v.
 C029344 DEPARTMENT OF SOCIAL SERVICES

The judgment is affirmed.

NICHOLSON, J.

We concur: DAVIS, Acting P.J.
 CALLAHAN, J.

THURSDAY, APRIL 22, 1999 CONTINUED

Juvenile In re CODY C., a Person Coming Under the Juvenile Court Law.
 No. v. (Not for Publication)
 C030033 CODY C.

The judgment (order) committing the minor to the California Youth Authority is affirmed.

HULL, J.

We concur: SCOTLAND, P. J.
 RAYE, J.

Civil ROBIN WILSON (Not for Publication)
 No. v.
 C027518 WAL-MART, INC.
 C027765

The judgment is affirmed. Both sides shall bear their won costs on appeal.

HULL, J.

We concur: SCOTLAND, P.J.
 MORRISON, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C028779 THOMAS EDWARD WHITE

The judgment is affirmed.

NICHOLSON, J.

We concur: DAVIS, Acting P.J.
 CALLAHAN, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C029346 LUIS ANTONIO FELIX AVILA

The judgment is affirmed.

NICHOLSON, J.

We concur: DAVIS, Acting P.J.
 CALLAHAN, J.

THURSDAY, APRIL 22, 1999 CONTINUED

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C025750 MOLTON DEE LYLES
 The judgment is affirmed.
 HULL, J.
 We concur: DAVIS, Acting P.J.
 I concur in the result:
 RAYE, J.

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C028950 RODNEY LOEONARD PATRICK
 The judgment is affirmed.
 HULL, J.
 We concur: BLEASE, Acting P.J.
 RAYE, J.

FRIDAY, APRIL 23, 1999

Crim. THE PEOPLE (Not for Publication)
 No. v.
 C029833 LAWRENCE ANTHONY STONE
 The judgment is affirmed.
 BLEASE, Acting P.J.
 We concur: RAYE, J.
 HULL, J.

Civil ERNESTO BASILIO (Not for Publication)
 No. v.
 C028764 CAMRAY DEVELOPMENT & CONSTRUCTION COMPANY et al.
 The judgment is affirmed. Camray is awarded its costs on appeal.
 CALLAHAN, J.
 We concur: SIMS, Acting P.J.
 RAYE, J.

FRIDAY, APRIL 23, 1999 CONTINUED

Crim. THE PEOPLE (Not for Publication)

No. v.

C030901 MARK ANTHONY ALCORCHA

The judgment is affirmed.

CALLAHAN, J.

We concur: SIMS, Acting P.J.
RAYE, J.